

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JUN 26 2002

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

LULAC COUNCIL # 682, Paul Castillo,)
Ernest Hernandez, Diana G. Keyes and)
Robert Martinez,)
Plaintiffs)
v.) CIVIL ACTION NO.
) SA-02-369-OG
)
CITY OF SEGUIN, and Mark Stautzenberger,)
Mayor of Seguin, Council member Ruben)
"Rocky" Contreras, Council member Mary)
Louise Gonzales, Council member Bruno)
Martinez, Council member Javier Cueves,)
Council member H.A. "Dan" Daniels,)
Council member Ronnie Humphrey,)
Council member Betty Ann Matthies, and)
Council member Roger Weyel, in their)
official capacities,)
Defendants)

AGREED ORDER APPROVING SETTLEMENT

Plaintiffs and Defendants have reached agreement on the resolution of this action, and present their agreement to this Court through this AGREED ORDER.

FINDINGS OF FACT

1. Plaintiffs filed this action on April 12, 2002, challenging the redistricting plan for election of City of Seguin City Council members. Plaintiffs alleged that the redistricting plan scheduled for use in the May 2002 election of the Seguin City Council members had not been precleared by the United States Department of Justice, pursuant to Section 5 of the Voting Rights Act 42 U.S.C. § 1973. Plaintiffs further alleged that Defendants had conducted the candidate filing

13.

period for the May 4, 2002 municipal election in violation of Section 2 of the Voting Rights Act, as amended. Defendants conceded that the May 2002 elections could not go forward without first obtaining Section 5 preclearance from the United States Department of Justice. *Clark v. Roemer*, 500 U.S. 646, 652-653, 111 S.Ct. 2096, 2101 (1991).

2. Plaintiffs sought and this Court granted on April 16, 2002, a temporary restraining order preventing the Defendants from further use of the challenged plan. In particular, the Court enjoined the City elections then scheduled for May 4, 2002.

3. On April 30, 2002, this Court approved an agreed order for a preliminary injunction, enjoining Defendants from holding an election for City Council members until such time as the reapportionment plan for Council member districts had received Section 5 preclearance from the United States Department of Justice.

4. The Defendant, City of Seguin, is a jurisdiction covered by Section 5 of the Voting Rights Act, as amended, 42. U.S.C. §1973c.

5. On May 17, 2002, the United States Department of Justice issued a letter of preclearance to the Defendant, City of Seguin, giving Section 5 preclearance to the proposed reapportionment plan for the election of council members, as well as certain changes to polling places previously adopted by the Seguin City Council.

6. In light of the Section 5 preclearance obtained by Defendant, City of Seguin, the parties agree that the proposed reapportionment plan for the election of City Council members should now be implemented and that an election should be held for the election of those members of the City Council whose terms have expired.

7. Plaintiffs and Defendants have agreed in settlement of this action that the election of City Council members whose terms have expired should be held on Saturday, September 14, 2002, such dated being the next uniform election date prescribed by section 41.001 of the Texas Election Code.

8. Plaintiffs and Defendants have further agreed that the September 14, 2002, election shall be conducted in compliance with the applicable requirements of the Texas Election Code, including publication of notice, a new candidate filing period and early voting. September 14, 2002 is a uniform election date, but not a date for which municipal elections are normally held absent a court order. The parties seek that this Court order such election to be held on that date.

9. Plaintiffs and Defendants have further agreed that the candidates elected at the September 14, 2002 election shall stand for re-election at the regular election in May, 2006 unless prevented from doing so by the term limitations set out in the City Charter.

CONCLUSIONS OF LAW

1. Plaintiffs in this action are prevailing parties and are entitled to reasonable attorney's fees and costs under 42 U.S.C. §1973l(e) and § 1988.

2. Based on the foregoing, IT IS THEREFORE ORDERED as follows:

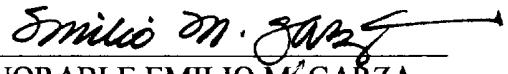
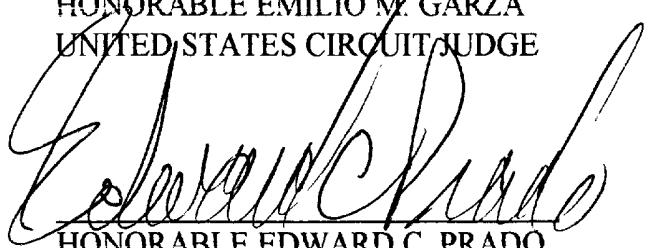
A. The City of Seguin will use the redistricting plan approved by the Department of Justice on May 17, 2002, for the City elections to be held on September 14, 2002.

B. All City Council members of the City of Seguin whose terms have expired and who are presently holding office in a holdover capacity shall stand for election on September 14, 2002. In addition, those proposed charter amendments

which were previously stayed pursuant the Court's preliminary injunction are to appear on the September 14, 2002, ballot.

- C. Those candidates who are elected on September 14, 2002, shall stand for re-election at the regular election in May 2006 unless prevented by term limits.
- D. The City of Seguin shall conduct the September 14, 2002 election in compliance with the applicable provisions of the Texas Election Code, including notice, candidate filing and early voting procedures prescribed therein. This election is a court ordered election pursuant to section 41.001(b)(4)of the Texas Election Code.
- E. The City of Seguin will pay Plaintiffs' attorney's fees and costs in the sum of \$10,000.

ORDERED this 26 day of June, 2002.


HONORABLE EMILIO M. GARZA
UNITED STATES CIRCUIT JUDGE

HONORABLE EDWARD C. PRADO
UNITED STATES DISTRICT JUDGE


ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE

Approved:

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